

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

FRED BECK; ET AL.,

PLAINTIFFS,

VS.

CIVIL ACTION NO. 3:03CV60-P-D

**KOPPERS, INC., f/k/a KOPPERS INDUSTRIES, INC.;
ET AL.,**

DEFENDANTS.

CONSOLIDATED WITH

HOPE ELLIS, ET AL.,

PLAINTIFFS,

VS.

CIVIL ACTION NO. 3:04CV160-P-D

**KOPPERS, INC., f/k/a KOPPERS INDUSTRIES, INC.;
ET AL.,**

DEFENDANTS.

ORDER

These matters come before the court upon ten of the motions pending regarding the claims of Plaintiff Kay Hobbs and one motion pending regarding the claims of David Hill. Trial for the claims of Sherrie Barnes, the first among at least twelve separate trials ordered in this case, ended on May 12, 2006. On July 26, 2006 Defendants Koppers, Inc. and Beazer East, Inc. filed their notices of appeal. On August 1, 2006, Plaintiff Sherrie Barnes filed her cross appeal. Given that the subject motions involve substantially the same issues already ruled upon in the Barnes case, the court finds that they should be denied with permission to reassert them pending the resolution of the appeals.

IT IS THEREFORE ORDERED AND ADJUDGED that all of the following motions are **DENIED** with permission to refile in the event of a favorable resolution by the Fifth Circuit Court

of Appeals:

(1) Illinois Central Railroad Company's Motion to Exclude the Testimony of Nicholas Cheremisinoff [802-1] (Kay Hobbs);

(2) Koppers, Inc. and Beazer East, Inc.'s Motion in Limine to Bar the Testimony of Drs. James E. Bruya, Devraj Sharma, and Nicholas Cheremisinoff [806-1] (Kay Hobbs);

(3) Koppers, Inc. and Beazer East, Inc.'s Motion for Summary Judgment [807-1] (Kay Hobbs);

(4) Illinois Central Railroad Company's Motion for Summary Judgment [808-1] (Kay Hobbs);

(5) Illinois Central Railroad Company's Motion for Attorney Fees and Expenses Under the Litigation Accountability Act of 1988 and Rule 11 [810-1] (Kay Hobbs);

(6) Koppers, Inc. and Beazer East, Inc.'s Motion to Exclude the Expert Testimony of James G. Dahlgren, M.D. [812-1] (Kay Hobbs);

(7) Koppers, Inc. and Beazer East, Inc.'s Motion to Exclude the Expert Testimony of Dr. William R. Sawyer [814-1] (Kay Hobbs);

(8) Koppers, Inc. and Beazer East, Inc.'s Motion to Exclude the Expert Testimony of Dr. Michael Wolfson [817-1] (Kay Hobbs);

(9) Plaintiff Kay Hobbs's Motion in Limine to Adopt Court's Ruling on Motion to Strike the Opinion of James Shea or, in the Alternative, to Limit the Opinions of James Shea [829-1];

(10) Plaintiff Kay Hobbs's Motion in Limine to Adopt Court's Ruling on Motion in Limine Regarding the Admissibility of Backyard Barrel Burning and Other Alternative Source [830-1]; and

(11) Koppers, Inc. and Beazer East, Inc.'s Motion for Summary Judgment on the Claims of

David Hill and to Reassert Dispositive and Evidentiary Motions Previously Filed [949-1].

SO ORDERED this the 9th day of August, A.D., 2006.

/s/ W. Allen Pepper, Jr. _____
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE